STATE OF ARIZONA

### STATE OF ARIZONA

### DEPARTMENT OF INSURANCE

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| In the Matter of the Withdrawal of:                          | )           | Docket No. 97A-121-INS |
|--|-------------|------------------------|
| AMERICAN DEALERS LIFE INSURANCE<br>COMPANY (NAIC No. 86029), | )           | ORDER                  |
| Petitioner.  | )<br>)<br>) |                        |

On October 8, 1997, the Office of Administrative Hearings, through Administrative Law Judge Lewis D. Kowal, submitted "Recommended Decision of Administrative Law Judge" ("Recommended Decision"), a copy of which is attached and incorporated by this reference. The Director of the Arizona Department of Insurance has reviewed the Recommended Decision and enters the following order:

- 1. The recommended findings of fact and conclusions of law are adopted.
- 2. The Petitioner may file its Articles of Amendment with the Arizona Corporation Commission.
- 3. The Petitioner is entitled to the release of its statutory deposit in the sum of \$110,000.00 and Petitioner's statutory deposit will be released to the Petitioner after the Department has received the following: (a) payment of \$5,265.00 to the Department; (b) a copy of Petitioner's Articles of Amendment certified as having been filed with the Arizona Corporation Commission; and (c) a fully executed Form E126 (Notice of Trust Deposit Release). The statutory deposit will not be released until the Department receives a fully executed copy of the official State Treasurer Release Receipt.

| 4. The sum of \$100.00 previously credited to the Insurance Examiners' Revolving  |
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| Fund will be refunded to the Petitioner, pursuant to A.R.S. § 20-159.   |
| 5. The Petitioner will file its 1997 Annual Statement with the Department, together   |
| with all applicable fees, unless Petitioner files its Articles of Amendment with the Arizona Corporation  |
| Commission on or before December 31, 1997.  |
| NOTIFICATION OF RIGHTS  |
| The aggrieved party may request a rehearing with respect to this Order by filing a written  |
| petition with the Office of Administrative Hearings within 30 days of the date of this Order, setting forth   |
| the basis for such relief pursuant to A.A.C. R20-6-114(B).  |
| The final decision of the Director may be appealed to the Superior Court of Maricopa  |
| County for judicial review pursuant to A.R.S. § 20-166. A party filing an appeal must notify the Office of  |
| Administrative Hearings of the appeal within ten days after filing the complaint commencing the appeal,   |
| pursuant to A.R.S. §41-1092.10.   |
| DATED this day of October, 1997   |
| John A. Greene Director of Insurance  |
| A copy of the foregoing mailed this 10th day of October, 1997   |
| Charles R. Cohen, Deputy Director Gregory Y. Harris, Executive Assistant Director Catherine O'Neil, Assistant Director Gary Torticill, Assistant Director Kurt A. Regner, Examiner/Analyst Arizona Department of Insurance 2910 N. 44th Street, Suite 210 Phoenix, AZ 85018 |

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## IN THE OFFICE OF ADMINISTRATIVE HEARINGS

In the Matter of the Withdrawal of:

AMERICAN DEALERS LIFE INSURANCE COMPANY (NAIC NO. 86029).

Petitioner.

97A-121-INS

RECOMMENDED DECISION OF ADMINISTRATIVE LAW JUDGE

HEARING: September 5, 1997. The record closed on September 30, 1997.

APPEARANCE: Carol Cure, Esq. for the Petitioner; Assistant Attorney General Micahel J. De La Cruz, Esq. for the Arizona Department of Insurance

ADMINISTRATIVE LAW JUDGE: Lewis D. Kowal

On September 5, 1997, a hearing took place, to consider the application of American Dealers Life Insurance Company (the "Petitioner"), that was filed with the Arizona Department of Insurance (the "Department") to withdraw from the insurance business, for the release of its statutory deposit pursuant to A.R.S. §20-588 and A.A.C. R20-6-303 and an appeal of the Department's assessment of a civil penalty upon the Petitioner.

Based upon the record in this matter the following recommended Findings of Fact, Conclusions of Law and Recommended Order are made:

# FINDINGS OF FACT AND CONCLUSIONS OF LAW

- 1. Petitioner did not appear at the September 5, 1997 hearing. On Motion to Reopen Record filed by Petitioner along with a stipulation of the parties that this matter be reopened and specific documents be admitted into evidence, the record of this matter is reopened. The record of this matter closed on September 30, 1997.
- 2. Petitioner stipulated to assessments and civil penalties in the sum of \$5,265.00.
- 3. The Petitioner has surrendered its Certificate of Authority to the Department.

Office of Administrative Hearings 1700 West Washington, Suite 602 Phoenix, Arizona 85007 (602) 542-9826

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- 4. The Petitioner has filed with the Department certified copies of Resolutions of the Petitioner's Board of Directors and of the Petitioner's shareholder(s) to withdraw from the insurance business and to amend its Articles of Incorporation so as to delete the term "Insurance" from Petitioner's corporate name.
- 5. The Petitioner has no insurance obligations owing to it, whether by policies written direct or by reinsurance ceded to it.
- 6. The Petitioner has filed its certified financial statement as of March 31, 1997, with the Department.
- 7. At least ten business days before the hearing of this matter, Petitioner gave special notice to creditors and policyholders of the Petitioner, setting forth the date, place, nature and purpose of the hearing, as evidenced by an affidavit of publication. Petitioner also provided individual notice by mail to its known creditors, as evidenced by an affidavit.
- 8. The Petitioner has a \$110,000.00 statutory deposit with the Department and a \$100.00 deposit with the Insurance Examiners' Revolving Fund ("IERF").
- 9. The Petitioner has complied with the provisions of A.R.S. §20-588 and with A.A.C. R20-6-303, relating to the release of its \$110,000.00 statutory deposit.
- 10. Petitioner currently owes \$5,265.00 to the Department for late filing of Petitioner's 1996 Annual Statement and Certificate of Disclosure, late payment of the certificate of authority renewal fee and assessment of the 1997 certificate of authority renewal fee.

### RECOMMENDED ORDER

The undersigned Administrative Law Judge recommends that:

- 1. The Petitioner may file its Articles of Amendment with the Arizona Corporation Commission.
- 2. The Petitioner is entitled to the release of its statutory deposit in the sum of \$110,000.00 and Petitioner's statutory deposit shall be released to the Petitioner after the Department has received the following: (a) payment of \$5,265.00 to the Department; (b) a copy of Petitioner's Articles of Amendment certified as having been filed with the Arizona Corporation Commission; and (d) a fully executed Form E126 (Notice of Trust Deposit Release). The statutory deposit cannot be released until the Department receives a fully executed copy of the official State Treasurer Release Receipt.

- 3. The sum of \$100.00 previously credited to the IERF shall be refunded to the Petitioner, pursuant to A.R.S. §20-159.
- 4. The Petitioner file its 1997 Annual Statement with the Department, together with all applicable fees, unless Petitioner files its Articles of Amendment with the Arizona Corporation Commission on or before December 31, 1997.

Done this day, October 8, 1997.

Lewis D. Kowal

Administrative Law Judge

Original transmitted by mail this day of *Cober*, 1997, to:

Mr. John A. Greene, Director Department of Insurance 2910 North 44th Street, #210 ATTN: Curvey Burton Phoenix, AZ 85018-7256

By Mis Crawford Thomeson